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In re Application of	:
Gregory Gene Steiner	:
Serial No.: 10/084,391	: PETITION DECISION
Filed: February 26, 2002	:
Attorney Docket No.:	:

This is in response to the telephone interview and informal petition under 37 CFR 1.181 and earlier status inquiries, from January, 2005, requesting withdrawal of abandonment based, in part, on an incorrect mailing address.

A review of the file history shows that this application was filed by applicant on February 26, 2002, and contained as a correspondence address PO BOX 61515, Honolulu, HI 96389. The examiner mailed a first Office action to this address on February 7, 2003, setting a three month shortened statutory period for reply. Applicant replied on March 4, 2003, by filing an amendment to the specification and claims. Unfortunately, due to Rules changes from the previous year, applicant's amendment was not in acceptable form. On June 5, 2003, the Office mailed a Notice of Non-Compliant Amendment to applicant setting a one month period for reply. A change of address was received on June 16, 2003. Applicant replied on July 21, 2003, by filing a new amendment. However, applicant did not request or pay for a one month extension of time. Applicant was not notified of the fee deficiency until February, 2004, at which time a request and fee for a one month extension of time was submitted. A Notice of Abandonment was mailed to applicant on March 25, 2004, indicating that no reply to the Office action of February 7, 2003, had been received.

It is noted that applicant is prosecuting his own application and is likely not completely familiar with Rules changes for prosecution before the Office. It is also noted that the Office has changed its Rules for submission of amendments to the claims and specification at least three times since 2001. In view of these changes, it is understandable that applicant was not aware of the most recent Rule change for submitting amendments and the error in submission can be excused. It is also noted that applicant has attempted to reply to Office actions promptly, usually within a month of mailing thereof. That applicant did not reply within one month to the Notice of Non-Compliant Amendment may be due to the change of address which likely crossed in the mail with the Notice. However, the Office should not have delayed three months from receipt of the amendment to the mailing of the Notice of Non-Compliant Amendment, nor delayed over six

months after receipt of the revised amendment before notifying applicant that the amendment was defective in that it lacked an extension of time request and fee. Such delay, in effect, mandated abandonment of the application.

In view of the Office delays and errors and, applicant's status as *pro se*, the petition is **GRANTED**. This application is restored to pending status with the mailing of this decision.

**Applicant's remarks filed March 7, 2003, will be considered responsive to the Office action of February 7, 2003, and the examiner will act in accordance therewith.**

It is, however, noted that applicant's last amendment remains non-compliant with current Rules for amendments. Current Rules require that any amendment to the specification (other than the addition or deletion of 5 or fewer characters) be made by reproducing the entire paragraph and showing the changes by underlining (for additions) and strikethrough (for deletions). In addition when any claim is amended in reply to an Office action a complete listing of claims must be presented with changes shown as noted above. Further each claim must be preceded by an identifier such as: new, amended, previously amended, original, canceled, etc. Applicant is urged to review these Rules on the Office website to ensure compliance therewith. **The reply to the next Office action will require compliance with current Rules for amendments.**

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.



Bruce M. Kishuk

Director, Technology Center 1600